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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case Number 4470

12 **SEAN ALLEN PENDLEY**
13 **3300 Broadway**
Eureka, California 95501

A C C U S A T I O N

14 **Pharmacist License Number RPH 56229**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Complainant Virginia Herold brings this Accusation solely in her official capacity as
20 the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

21 2. On or about September 21, 2004, the Board issued Pharmacist License Number
22 RPH 56229 to respondent Sean Allen Pendley. This pharmacist license was in full force and
23 effect at all times relevant to the charges brought in this Accusation and will expire on March 31,
24 2014, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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1 4. Section 118, subdivision (b), provides:

2 “The suspension, expiration, or forfeiture by operation of law of a license issued by a board
3 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order
4 of a court of law, or its surrender without the written consent of the board, shall not, during any
5 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
6 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
7 provided by law or to enter an order suspending or revoking the license or otherwise taking
8 disciplinary action against the licensee on any such ground.”

9 5. Section 4011 provides:

10 “The board shall administer and enforce this chapter and the Uniform Controlled
11 Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).”

12 6. Section 4300, subdivision (a), provides:

13 “Every license issued may be suspended or revoked.”

14 7. Section 4304 provides:

15 “The board may deny, revoke, or suspend any license issued pursuant to Section 4161 for
16 any violation of this chapter or for any violation of Part 5 (commencing with Section 109875) of
17 Division 104 of the Health and Safety Code.”

18 **STATUTORY PROVISIONS**

19 8. Section 490, subdivision (a), provides:

20 “In addition to any other action that a board is permitted to take against a licensee, a board
21 may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if
22 the crime is substantially related to the qualifications, functions, or duties of the business or
23 profession for which the license was issued.”

24 9. Section 4059, subdivision (a), provides, in pertinent part:

25 “A person may not furnish any dangerous drug, except upon the prescription of a physician,
26 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.”

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1 10. Section 4059.5, subdivision (e), provides:

2 “A dangerous drug or dangerous device shall not be transferred, sold, or delivered to a
3 person outside this state, whether foreign or domestic, unless the transferor, seller, or deliverer
4 does so in compliance with the laws of this state and of the United States and of the state or
5 country to which the dangerous drugs or dangerous devices are to be transferred, sold, or
6 delivered. Compliance with the laws of this state and the United States and of the state or country
7 to which the dangerous drugs or dangerous devices are to be delivered shall include, but not be
8 limited to, determining that the recipient of the dangerous drugs or dangerous devices is
9 authorized by law to receive the dangerous drugs or dangerous devices.”

10 11. Section 4060 provides, in pertinent part:

11 “No person shall possess any controlled substance, except that furnished to a person upon
12 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
13 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-
14 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician
15 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
16 pharmacist pursuant to either Section 4052.1 or 4052.2.”

17 12. Section 4301 provides, in pertinent part:

18 “The board shall take action against any holder of a license who is guilty of unprofessional
19 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
20 Unprofessional conduct shall include, but is not limited to, any of the following:

21 ...

22 “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
23 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
24 whether the act is a felony or misdemeanor or not.

25 “(g) Knowingly making or signing any certificate or other document that falsely represents
26 the existence or nonexistence of a state of facts.

27 “(h) The administering to oneself, of any controlled substance, or the use of any dangerous
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the
3 practice authorized by the license.

4 ...

5 “(j) The violation of any of the statutes of this state, of any other state, or of the United
6 States regulating controlled substances and dangerous drugs.

7 ...

8 “(l) The conviction of a crime substantially related to the qualifications, functions, and
9 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
10 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
11 substances or of a violation of the statutes of this state regulating controlled substances or
12 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
13 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
14 The board may inquire into the circumstances surrounding the commission of the crime, in order
15 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
16 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
17 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
18 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
19 of this provision. The board may take action when the time for appeal has elapsed, or the
20 judgment of conviction has been affirmed on appeal or when an order granting probation is made
21 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
22 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
23 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
24 indictment.

25 ...

26 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
27 violation of or conspiring to violate any provision or term of this chapter or of the applicable

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1 federal and state laws and regulations governing pharmacy, including regulations established by
2 the board or by any other state or federal regulatory agency.”

3 13. Section 4324 provides:

4 “(a) Every person who signs the name of another, or of a fictitious person, or falsely makes,
5 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any
6 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment
7 pursuant to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in a county
8 jail for not more than one year.

9 “(b) Every person who has in his or her possession any drugs secured by a forged
10 prescription shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the
11 Penal Code, or by imprisonment in the county jail for not more than one year.”

12 14. Health and Safety Code section 11150 provides:

13 “No person other than a physician, dentist, podiatrist, or veterinarian, or naturopathic doctor
14 acting pursuant to Section 3640.7 of the Business and Professions Code, or pharmacist acting
15 within the scope of a project authorized under Article 1 (commencing with Section 128125) of
16 Chapter 3 of Part 3 of Division 107 or within the scope of either Section 4052.1 or 4052.2 of the
17 Business and Professions Code, a registered nurse acting within the scope of a project authorized
18 under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a
19 certified nurse-midwife acting within the scope of Section 2746.51 of the Business and
20 Professions Code, a nurse practitioner acting within the scope of Section 2836.1 of the Business
21 and Professions Code, a physician assistant acting within the scope of a project authorized under
22 Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or Section
23 3502.1 of the Business and Professions Code, a naturopathic doctor acting within the scope of
24 Section 3640.5 of the Business and Professions Code, or an optometrist acting within the scope of
25 Section 3041 of the Business and Professions Code, or an out-of-state prescriber acting pursuant
26 to Section 4005 of the Business and Professions Code shall write or issue a prescription.”

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1 15. Health and Safety Code section 11153, subdivision (a), provides, in pertinent part:

2 “A prescription for a controlled substance shall only be issued for a legitimate medical
3 purpose by an individual practitioner acting in the usual course of his or her professional
4 practice.”

5 16. Health and Safety Code section 11157 provides:

6 “No person shall issue a prescription that is false or fictitious in any respect.”

7 17. Health and Safety Code section 11170 provides:

8 “No person shall prescribe, administer, or furnish a controlled substance for himself.”

9 18. Health and Safety Code section 11173 provides, in pertinent part:

10 “(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt
11 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
12 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

13 “(b) No person shall make a false statement in any prescription, order, report, or record,
14 required by this division.”

15 19. Health and Safety Code section 11174 provides:

16 “No person shall, in connection with the prescribing, furnishing, administering, or
17 dispensing of a controlled substance, give a false name or false address.”

18 20. Health and Safety Code section 11368 provides:

19 “Every person who forges or alters a prescription or who issues or utters an altered
20 prescription, or who issues or utters a prescription bearing a forged or fictitious signature for any
21 narcotic drug, or who obtains any narcotic drug by any forged, fictitious, or altered prescription,
22 or who has in possession any narcotic drug secured by a forged, fictitious, or altered prescription,
23 shall be punished by imprisonment in the county jail for not less than six months nor more than
24 one year, or in the state prison.”

25 21. California Code of Regulations, title 16, section 1770, provides:

26 “For the purpose of denial, suspension, or revocation of a personal or facility license
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare.”

4 **COST RECOVERY**

5 22. Section 125.3, subdivision (a), provides:

6 “Except as otherwise provided by law, in any order issued in resolution of a disciplinary
7 proceeding before any board within the department or before the Osteopathic Medical Board,
8 upon request of the entity bringing the proceedings, the administrative law judge may direct a
9 licentiate found to have committed a violation or violations of the licensing act to pay a sum not
10 to exceed the reasonable costs of the investigation and enforcement of the case.”

11 **DRUGS**

12 23. “Cyclobenzaprine” is a muscle relaxant medication used to relieve skeletal muscle
13 spasms and associated pain in acute musculoskeletal conditions. It is a dangerous drug within the
14 meaning of Business and Professions Code section 4022.

15 24. “Hydrocodone-Acetaminophen” (HC-APAP) is known by the brand name Norco and
16 is used for the relief of moderate to moderately severe pain. It is a Schedule III controlled
17 substance pursuant to Health and Safety Code section 11056, subdivision (e)(4). It also is a
18 dangerous drug within the meaning of Business and Professions Code section 4022 and a narcotic
19 drug within the meaning of Health and Safety Code section 11019.

20 25. “Methylprednisolone” is a synthetic glucocorticoid or corticosteroid drug and is used
21 for its anti-inflammatory effects. It is a dangerous drug within the meaning of Business and
22 Professions Code section 4022.

23 **FACTUAL BACKGROUND AND CAUSES FOR DISCIPLINE**

24 **FRAUDULENT PRESCRIPTIONS**

25 26. On or about December 2, 2008, at Rite Aid Pharmacy in San Luis Obispo, California,
26 respondent completed and initialed prescription number 529341 for Wesley Ferrens. This
27 prescription purported to be a telephonic order from Dr. Monroy for Norco 10/325 #90 and
28 Cyclobenzaprine 10 mg #90. The prescription stated that no refills remained.

1 27. Respondent left Rite Aid and began to work at CVS Pharmacy in Nipomo, California,
2 on or about January 27, 2009. While at CVS, he completed a prescription transferring
3 prescription number 529341 from Rite Aid to CVS. This transferred prescription again was for
4 Wess Ferrens from Dr. Monroy for Norco 10/325 #90. Wess Ferrens's address was listed as 221
5 Bishop. Unlike the original prescription number 529341, however, this transferred prescription
6 stated that four refills remained.

7 28. On or about August 18, 2009, a CVS employee was filling the transferred
8 prescription and called Rite Aid to get a copy of the original prescription number 529341. Rite
9 Aid discovered at that time that CVS was filling a fraudulent prescription. Dr. Monroy's office
10 was contacted and said that it had no patient by the name of Wesley Ferrens. The address listed
11 on the transferred prescription does not exist.

12 29. Further investigation and contact with Dr. Monroy's office indicated that respondent
13 used Dr. Monroy's name to forge the following prescriptions and refills. At least some of the
14 prescriptions were delivered.

15 A.1) On or about February 15, 2009, respondent wrote and filled transfer prescription
16 number 879471 from Dr. Monroy for Wess Ferrens for Norco 10/325 #90. This transfer
17 prescription stated that four refills remained. The original prescription number 529341 was for
18 Wess Ferrens from Dr. Monroy for Norco 10/325 #90 and Cyclobenzaprine 10 mg #90. The
19 original prescription stated that no refills remained.

20 2) On or about March 6, 2009, respondent refilled transfer prescription number
21 879471 for Norco 10/325 #90.

22 3) On or about March 20, 2009, respondent refilled transfer prescription number
23 879471 for Norco 10/325 #90.

24 4) On or about April 13, 2009, respondent refilled transfer prescription number
25 879471 for Norco 10/325 #90.

26 5) On or about May 1, 2009, respondent refilled transfer prescription number 879471
27 for Norco 10/325 #90.

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1 B. On or about May 1, 2009, respondent wrote and filled prescription number 891704
2 from Dr. Monroy for Wesley Ferrens for methylprednisolone 4 mg, #21. This prescription stated
3 that one refill remained.

4 C.1) On or about May 6, 2009, respondent wrote and filled prescription number
5 892490 from Dr. Monroy for David Michelson for Norco 10/325 #180. This prescription stated
6 that four refills remained.

7 2) On or about June 3, 2009, respondent refilled prescription number 892490 for
8 Norco 10/325 #180.

9 3) On or about June 24, 2009, respondent refilled prescription number 892490 for
10 Norco 10/325 #180.

11 4) On or about August 4, 2009, respondent refilled prescription number 892490 for
12 Norco 10/325 #180.

13 D.1) On or about May 24, 2009, respondent wrote and filled prescription number
14 894919 for Hydrocodone-APAP 10/325 #90. This prescription allowed for four refills.

15 2) On or about July 9, 2009, respondent refilled prescription number 894919 for
16 Hydrocodone-APAP 10/325 #90.

17 3) On or about August 18, 2009, respondent refilled prescription number 894919 for
18 Hydrocodone-APAP 10/325 #90.

19 30. Respondent was interviewed by store security personnel on or about August 21, 2009.
20 He admitted that he wrote the prescriptions himself, used the drugs himself, and wanted help with
21 his drug problem. He wrote the following statement:

22 "In December of 2008 I created a prescription for pain medication and muscle relaxers for
23 personal use. These prescriptions were not valid and these medications were used by myself.

24 "After leaving my employment with Rite Aid I continued to fill these prescriptions to
25 satisfy my own needs. I currently find myself relying on the pain medications and wish to find
26 help for a drug problem."

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1 31. Respondent was arrested and charged with a felony violation of section 4324,
2 subdivision (a) (forgery of a prescription). The case was dismissed on or about October 11, 2011,
3 after respondent demonstrated to the court satisfactory progress in a drug rehabilitation program.

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5 **FIRST CAUSE FOR DISCIPLINE**
6 **Unprofessional Conduct – Act of Moral Turpitude,**
7 **Dishonesty, Fraud, Deceit, or Corruption**
8 **Bus. & Prof. Code, § 4301, subd. (f)**

9 32. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
10 fully set forth.

11 33. Respondent has subjected his pharmacist license to disciplinary action under section
12 4301, subdivision (f), for the unprofessional conduct of committing an act of moral turpitude,
13 dishonesty, fraud, deceit, or corruption. As set forth in paragraphs 26-31 above, respondent wrote
14 and issued false and unauthorized prescriptions to acquire dangerous drugs for his own use.

15 **SECOND CAUSE FOR DISCIPLINE**
16 **Unprofessional Conduct – Knowingly Making a False Document**
17 **Bus. & Prof. Code, § 4301, subd. (g)**

18 34. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
19 fully set forth.

20 35. Respondent has subjected his pharmacist license to disciplinary action under section
21 4301, subdivision (g), for the unprofessional conduct of knowingly making a false document. As
22 set forth in paragraphs 26-31 above, respondent wrote and issued false and unauthorized
23 prescriptions to obtain dangerous drugs for his own use.

24 **THIRD CAUSE FOR DISCIPLINE**
25 **Unprofessional Conduct – Use of a Controlled Substance or Dangerous Drug**
26 **Bus. & Prof. Code, § 4301, subd. (h)**

27 36. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
28 fully set forth.

37. Respondent has subjected his pharmacist license to disciplinary action under section
4301, subdivision (h), for the unprofessional conduct of use of dangerous drugs. As set forth in
paragraphs 26-31 above, respondent admitted to using Hydrocodone-Acetaminophen and other

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1 dangerous drugs which he obtained by writing and issuing false and unauthorized prescriptions.
2 This use impaired his ability to conduct with safety to the public the practice of a pharmacist.

3 **FOURTH CAUSE FOR DISCIPLINE**
4 **Unprofessional Conduct – Furnishing a Dangerous Drug Without a Prescription**
5 **Bus. & Prof. Code, §§ 4059, subd. (a), 4301, subd. (o)**

6 38. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
7 fully set forth.

8 39. Respondent has subjected his pharmacist license to disciplinary action under sections
9 4059, subdivision (a), and 4301, subdivision (o), for the unprofessional conduct of furnishing a
10 dangerous drug without a prescription. As set forth in paragraphs 26-31 above, respondent wrote
11 and issued false and unauthorized prescriptions for dangerous drugs. These drugs were delivered
12 and ultimately obtained by respondent for his own use.

13 **FIFTH CAUSE FOR DISCIPLINE**
14 **Unprofessional Conduct – Not Complying with Laws for Delivering a Dangerous Drug**
15 **Bus. & Prof. Code, §§ 4059.5, subd. (e), 4301, subd. (o)**

16 40. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
17 fully set forth.

18 41. Respondent has subjected his pharmacist license to disciplinary action under sections
19 4059.5, subdivision (e), and 4301, subdivision (o), for the unprofessional conduct of not
20 complying with the laws to which dangerous drugs are to be delivered. As set forth in paragraphs
21 26-31 above, respondent wrote and issued false and unauthorized prescriptions for dangerous
22 drugs. These drugs were delivered and ultimately obtained by respondent for his own use.

23 **SIXTH CAUSE FOR DISCIPLINE**
24 **Unprofessional Conduct – Possession of a Controlled Substance**
25 **Bus. & Prof. Code, §§ 4060, 4301, subd. (o)**

26 42. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
27 fully set forth.

28 43. Respondent has subjected his pharmacist license to disciplinary action under sections
4060 and 4301, subdivision (o), for the unprofessional conduct of possession of a controlled
substance. As set forth in paragraphs 26-31 above, respondent admitted to possessing and using

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1 Hydrocodone-Acetaminophen which he obtained by writing and issuing false and unauthorized
2 prescriptions.

3 **SEVENTH CAUSE FOR DISCIPLINE**
4 **Unprofessional Conduct – Forgery**
5 **Bus. & Prof. Code, §§ 4301, subd. (o), 4324, subd. (a)**

6 44. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
7 fully set forth.

8 45. Respondent has subjected his pharmacist license to disciplinary action under sections
9 4301, subdivision (o), and 4324, subdivision (a), for the unprofessional conduct of forgery. As
10 set forth in paragraphs 26-31 above, respondent wrote and issued false and unauthorized
11 prescriptions.

12 **EIGHTH CAUSE FOR DISCIPLINE**
13 **Unprofessional Conduct – Possession of Drugs from a Forged Prescription**
14 **Bus. & Prof. Code, §§ 4301, subd. (o), 4324, subd. (b)**

15 46. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
16 fully set forth.

17 47. Respondent has subjected his pharmacist license to disciplinary action under sections
18 4301, subdivision (o), and 4324, subdivision (b), for the unprofessional conduct of possession of
19 drugs from a forged prescription. As set forth in paragraphs 26-31 above, respondent admitted to
20 possessing and using dangerous drugs which he obtained by writing and issuing false and
21 unauthorized prescriptions.

22 **NINTH CAUSE FOR DISCIPLINE**
23 **Unprofessional Conduct – Writing an Unauthorized Prescription**
24 **Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11150**

25 48. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
26 fully set forth.

27 49. Respondent has subjected his pharmacist license to disciplinary action under Business
28 and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11150 for
the unprofessional conduct of writing an unauthorized prescription. As set forth in paragraphs
26-31 above, respondent wrote and issued false and unauthorized prescriptions.

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2 **TENTH CAUSE FOR DISCIPLINE**
3 **Unprofessional Conduct – Issuing a Prescription for a Controlled Substance**
4 **Without a Legitimate Medical Purpose**
5 **Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11153, subd. (a)**

6 50. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
7 fully set forth.

8 51. Respondent has subjected his pharmacist license to disciplinary action under Business
9 and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11153,
10 subdivision (a), for the unprofessional conduct of issuing a prescription for a controlled substance
11 without a legitimate medical reason. As set forth in paragraphs 26-31 above, respondent wrote
12 and issued false and unauthorized prescriptions for Hydrocodone-Acetaminophen for his own
13 use.

14 **ELEVENTH CAUSE FOR DISCIPLINE**
15 **Unprofessional Conduct – Issuing a False or Fictitious Prescription**
16 **Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11157**

17 52. The allegations of paragraphs 24-30 are realleged and incorporated by reference as if
18 fully set forth.

19 53. Respondent has subjected his pharmacist license to disciplinary action under Business
20 and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11157 for
21 the unprofessional conduct of issuing a false or fictitious prescription. As set forth in paragraphs
22 24-30 above, respondent wrote and issued false and unauthorized prescriptions for dangerous
23 drugs. These drugs were delivered and ultimately obtained by respondent for his own use.

24 **TWELFTH CAUSE FOR DISCIPLINE**
25 **Unprofessional Conduct – Furnishing a Controlled Substance for Himself**
26 **Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11170**

27 54. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
28 fully set forth.

55. Respondent has subjected his pharmacist license to disciplinary action under Business
and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11170 for
the unprofessional conduct of furnishing a controlled substance for himself. As set forth in
paragraphs 26-31 above, respondent wrote and issued false and unauthorized prescriptions for

1 Hydrocodone-Acetaminophen. These controlled substances were delivered and ultimately
2 obtained by respondent for his own use.

3 **THIRTEENTH CAUSE FOR DISCIPLINE**
4 **Unprofessional Conduct – Obtaining Controlled Substances by Fraud**
5 **Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11173, subd. (a)**

6 56. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
7 fully set forth.

8 57. Respondent has subjected his pharmacist license to disciplinary action under Business
9 and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11173,
10 subdivision (a), for the unprofessional conduct of obtaining controlled substances by fraud. As
11 set forth in paragraphs 26-31 above, respondent wrote and issued false and unauthorized
12 prescriptions for Hydrocodone-Acetaminophen. These controlled substances were delivered and
13 ultimately obtained by respondent for his own use.

14 **FOURTEENTH CAUSE FOR DISCIPLINE**
15 **Unprofessional Conduct – Making a False Statement in a Prescription**
16 **Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11173, subd. (b)**

17 58. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
18 fully set forth.

19 59. Respondent has subjected his pharmacist license to disciplinary action under Business
20 and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11173,
21 subdivision (b), for the unprofessional conduct of making a false statement in a prescription. As
22 set forth in paragraphs 26-31 above, respondent wrote and issued false and unauthorized
23 prescriptions.

24 **FIFTEENTH CAUSE FOR DISCIPLINE**
25 **Unprofessional Conduct – Giving a False Address in Connection with**
26 **Dispensing a Controlled Substance**
27 **Bus. & Prof. Code, §§ 4301, subd. (j); Health & Saf. Code, § 11174**

28 60. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
fully set forth.

61. Respondent has subjected his pharmacist license to disciplinary action under Business
and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11174 for

1 the unprofessional conduct of giving a false address in connection with dispensing a controlled
2 substance. As set forth in paragraphs 26-31 above, respondent wrote and issued false and
3 unauthorized prescriptions with a false address for Hydrocodone-Acetaminophen. These
4 controlled substances were delivered and ultimately obtained by respondent for his own use.

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6 **SIXTEENTH CAUSE FOR DISCIPLINE**
7 **Unprofessional Conduct – Forging a Prescription for a Narcotic Drug, or Obtaining or**
8 **Possessing a Narcotic Drug with a Forged Prescription**
9 **Bus. & Prof. Code, §§ 4301, subd. (j); Health & Saf. Code, § 11368**

10 62. The allegations of paragraphs 26-31 are realleged and incorporated by reference as if
11 fully set forth.

12 63. Respondent has subjected his pharmacist license to disciplinary action under Business
13 and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11368 for
14 the unprofessional conduct of forging a prescription for a narcotic drug, or obtaining or
15 possessing a narcotic drug with a forged prescription. As set forth in paragraphs 26-31 above,
16 respondent wrote and issued false and unauthorized prescriptions for Hydrocodone-
17 Acetaminophen. These narcotic drugs were delivered and ultimately obtained by respondent for
18 his own use.

19 **DUI ARREST AND CONVICTION**

20 64. On or about December 10, 2010, at about 2:25 a.m., a police officer saw respondent
21 driving a vehicle at a high rate of speed in Pismo Beach, California. The vehicle was being
22 driven erratically and had expired license tags. The police stopped the vehicle. Respondent's
23 eyes were red and watery, and had an odor of alcoholic beverage coming from his person. A
24 preliminary alcohol screening test registered respondent's blood alcohol to be 0.144 percent.
25 After some hesitation, respondent submitted to a blood test.

26 65. Respondent was arrested and charged with misdemeanor violations of Vehicle Code
27 sections 23152, subdivision (a) (driving under the influence of an alcoholic beverage) and
28 subdivision (b) (driving while having a 0.08 percent or higher blood alcohol content).

66. On or about January 10, 2011, in the Superior Court of California, San Luis Obispo
County, case number M455493, entitled *The People of the State of California vs. Sean Allen*

1 *Pendley*, respondent pled no contest to a misdemeanor violation of Vehicle Code section 23152,
2 subdivision (b). The other count was dismissed. Imposition of sentence was suspended, and
3 respondent was placed on court probation for a period of three years, which included, but were
4 not limited to, the following terms: enrolling in a driving under the influence program and two
5 days' incarceration.

6 **SEVENTEENTH CAUSE FOR DISCIPLINE**
7 **Criminal Conviction**
8 **Bus. & Prof. Code, § 490, subd. (a)**

9 67. The allegations of paragraphs 64-66 are realleged and incorporated by reference as if
10 fully set forth.

11 68. Respondent has subjected his pharmacist license to disciplinary action under section
12 490, subdivision (a), for a criminal conviction. As set forth in paragraphs 64-66 above,
13 respondent was convicted of a misdemeanor violation of Vehicle Code section 23152, subdivision
(b), for driving while intoxicated.

14 **EIGHTEENTH CAUSE FOR DISCIPLINE**
15 **Unprofessional Conduct – Criminal Conviction**
16 **Bus. & Prof. Code, § 4301, subd. (l)**

17 69. The allegations of paragraphs 64-66 are realleged and incorporated by reference as if
18 fully set forth

19 70. Respondent has subjected his pharmacist license to disciplinary action under section
20 4301, subdivision (l), for the unprofessional conduct of sustaining a criminal conviction. As set
21 forth in paragraphs 64-66 above, respondent was convicted of a misdemeanor violation of
Vehicle Code section 23152, subdivision (b), for driving while intoxicated.

22 **NINETEENTH CAUSE FOR DISCIPLINE**
23 **Unprofessional Conduct – Use of Alcoholic Beverages**
24 **Bus. & Prof. Code, § 4301, subd. (h)**

25 71. The allegations of paragraphs 64-66 are realleged and incorporated by reference as if
26 fully set forth

27 72. Respondent has subjected his pharmacist license to disciplinary action under section
28 4301, subdivision (h), for the unprofessional conduct of using alcoholic beverages. As set forth

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1 in paragraphs 64-66 above, respondent used alcoholic beverages in a manner dangerous or
2 injurious to himself or the public by driving while intoxicated.

3 **PRAYER**

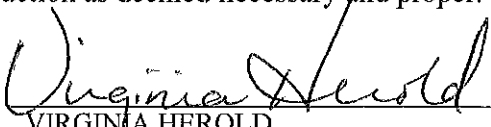
4 WHEREFORE, complainant requests that a hearing be held on the matters alleged in this
5 Accusation, and that following the hearing, the Board issue a decision:

6 1. Revoking or suspending Pharmacist License Number RPH 56229 issued to Sean
7 Allen Pendley;

8 2. Ordering Sean Allen Pendley to pay the Board of Pharmacy the reasonable costs of
9 the investigation and enforcement of this case pursuant to Business and Professions Code section
10 125.3; and

11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: 1/17/13


13 VIRGINIA HEROLD
14 Executive Officer
15 Board of Pharmacy
16 Department of Consumer Affairs
17 State of California
18 Complainant

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